

CITY OF BELMONT

PLANNING COMMISSION

SUMMARY MINUTES

THURSDAY, NOVEMBER 5, 2009, 7:00 PM

Chair Horton called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Horton, Mayer, Parsons, Frautschi, Mercer, Reed

Commissioners Absent: Mathewson (Arrived at 7:45 p.m.)

Staff Present: Community Development Director de Melo (CDD), Senior Planner DiDonato (SP), Assistant Planner Gill (AP), Deputy City Attorney Kane (DCA), Acting Recording Secretary Tompkins (ARS)

2. AGENDA AMENDMENTS - None

3. COMMUNITY FORUM (Public Comments) - None

4. CONSENT CALENDAR

4A. Minutes of September 15, 2009

MOTION: By Commissioner Mercer, seconded by Vice Chair Mayer, to approve the Minutes of September 15, 2009 as presented.

Ayes: Mercer, Mayer, Parsons, Reed, Horton

Abstain: Frautschi

Absent: Mathewson

Motion passed 5/0/1/1

4B. Minutes of October 6, 2009

Commissioner Reed asked that the last sentence in paragraph 2 on page 4 be changed to read: "He was not concerned about the garage as it is his opinion that there are probably a large number of code violators because there are probably a large number of homeowners in Belmont that use their garage for storage and not for parking cars, including those with two-car garages." He also noted that Commissioner Mathewson's name was spelled incorrectly under the motion on the same page.

MOTION: By Commissioner Frautschi, seconded by Vice Chair Mayer, to approve the Minutes of October 6, 2009 with the amendments noted.

Ayes: Frautschi, Mayer, Mercer, Parsons, Reed, Horton

Absent: Mathewson

Motion passed 5/0/1

5. PUBLIC HEARINGS

5A. PUBLIC HEARING - 2513 Hastings Drive

To consider an appeal of the Community Development Director's decision regarding an Administrative Conditional Use Permit (ACUP) to allow an extension of the existing attached rear deck/landing for the dwelling (Carlmont Woods II Planned Development).

(Appl. 2009-0021)

Parcel Number: 045-491-250

Zoning: Planned Development (PD) CEQA Status: Categorical Exemption per Section 15303

APPLICANT/OWNER(S): Anthony C. Allison & Elsie M. Eugui

PROJECT PLANNER: Rob Gill: (650) 598-4204

AP Gill summarized the staff memorandum, utilizing photos of views from the appellant's lower deck and balcony. Staff recommended that the Commission adopt the attached Resolution upholding the Community Development Director's decision to approve the ACUP.

Commissioner Reed asked if the deck extension was built without approval from the City. AP Gill responded that it was, and upon receiving a Stop Work Order the applicant decided to go through the process of seeking approval for the deck extension.

In response to Commissioner Parsons, AP Gill stated that he believed the existing wide deck extends all the way across the back of the house, and suggested that the applicant be asked to confirm that.

Discussion ensued between Vice Chair Mayer and staff regarding interpretation of "view of the surrounding area" as mentioned in Finding 12.12.C.1, the differences in processing an ACUP in a Planned Development and a Single-Family Design Review, and the process that would have taken place if the Community Development Director had not approved the application. CDD de Melo concluded by stating that if the Commission were to grant this appeal, the applicant could appeal that decision to the City Council. If the Commission denies the appeal, the appellant could similarly appeal the decision to the City Council.

In response to Commissioner Frautschi, AP Gill stated that he was not aware of other units in this development that have stairs descending from their decks, noting that there are 152 units in the development. He added that the only other possible configuration mentioned by the applicant was to extend the stairs from the other end, which would have created an issue with close proximity to the property line. Commissioner Frautschi clarified that the deck is about 15' off the ground, and that, to AP Gill's knowledge, the applicant had not considered taking the stairs under the deck.

Anthony Allison, applicant, stated that his immediate neighbor has stairs down from her deck; this is not a precedent. He added that they live there because of the view and he was glad that his neighbors have similar views. He explained that they took advice from the builder that the proposed location is the optimal place for the stairs and that the supports under the deck needed reinforcement for safety reasons. He added that it would be convenient to go down the steps in order to increase the fire clearing and that this is their only escape should there be a fire in the house.

Mark Bender, attorney hired by appellants Gordon and Amy Hardy, contended that the Planning Commission must look at this project as if it had not been built and then decide if Mr. Allison was entitled to build the stairs in this exact place or if there are other options. He stated that no evidence of other houses in the development with external stairs has been produced; it is not compatible with the neighborhood as there are no other houses with the external stairs in the neighborhood, and allowing this one would set a precedent that will substantially affect people's views. He stated that the code requires the Commission to determine if any neighbor's view is affected by the extension and the Hardy's view from their lower deck to the south is blocked. He understood that the Allisons are entitled to safety issues but it is a question of where else they could have put the stairs, and proposed that Planning staff should be required to fully consider all options. He added that the Hardys are willing to give workers access to the dirt path leading to the Allison property to do concrete reinforcement or clear brush. He concluded by reminding that the deck extension was built without a permit and because the view is blocked it is not appropriate to grant the application at all; if nothing else it should be sent back to staff level to explore other alternatives that have not been fully explored or presented by Mr. Allison.

Commissioner Parsons asked Mr. Bender if he knows for a fact that there are no other decks on the rest of the street. Mr. Bender responded that he is speaking from Mr. Hardy's knowledge – he does not know of any others.

Chair Horton opened the Public Hearing. No one came forward to speak.

MOTION: By Commissioner Parsons, seconded by Commissioner Frautschi to close the Public Hearing. Motion passed 6/0/1 by a show of hands, with Commissioner Mathewson absent.

Commissioner Mathewson arrived at 7:45 p.m.

Leona Duke, neighbor to the south of the applicant, was granted permission to address the Commission. She spoke in favor of allowing the deck and stairs to remain, noting that the applicant would have no way to get down safely should there be a fire and that the deck has not wrecked her view and does not bother her. She added that her steps are going down from her lower deck.

Commissioner Mercer described the difference in the rules that apply to a Planned Development (PD) vs. a single-family home, adding that she believed that anyone who purchases a home in a PD has a right to expect that the PD standards will be applied to their neighbors as well as themselves. She could not make the finding that this deck extension will not block the neighbor's view and concurred with the appellant. In addition, she noted that the existing deck is already protruding out somewhat more than it was originally and this extension would place it at the back property line, and that allowing incremental development outside of the footprints of the original structures all the way down the street would lose the integrity of the PD. She believed the staircase is necessary but that it could be engineered down through the existing deck without extending beyond the envelope of the house.

Commissioner Frautschi concurred with Commissioner Mercer, emphasizing the word "any" in Section 12.12.C.1. He sided with the appellant and recommended that the Commission continue the matter and ask staff to come up with an alternative that would allow the applicants to get down to the lower level. He did not believe that the Community Development Director had misused his power, but it is a call by the Commission and he believed that they would have to uphold the appellant.

Vice Chair Mayer questioned the difference between what views are protected and what views are not protected and the meaning of "block any neighbors view of the surrounding area." He concurred with staff and saw this as a very minor modification of the view, and noted that the PD process allows for modification to the Conditional Use Permit process. He believed that if this had come to the Planning Commission as a proposed modification to the PD they would have decided the issue based on a different set of criteria; that the views are not protected except for ridgelines.

Commissioner Parsons expressed that he did not believe the neighbor's view was actually hindered but concurred that there are alternate solutions to designing the deck that would not affect the neighbor's view. In response to his question to staff as to the options available to the Commission, CDD de Melo stated that the question could be put to the applicant if they want the Commission to render a decision or if they want the opportunity to study alternatives. DCA Kane added that if the appellant and the applicant would be amenable to some alternative proceeding, the Commission is not constrained in that regard. Commissioner Parsons hoped that the concerned parties could be queried about possible continuation of the item to determine if there is an alternative that would satisfy everybody.

Commissioner Reed considered the deck extension a very minor modification, however he noted that 12.12.C.1. uses the word "any" and it was built without a permit. He was in favor of allowing stairs for safety and maintenance reasons, but wondered if there is a different way to do it that would satisfy both parties. He would be in favor of continuing to a date uncertain to allow time to determine if there is a way to build a set of stairs to reach the back of the property safely that does not impact the view at all.

Commissioner Mathewson concurred that it would be good to continue the item to see if a solution can be found that would work for both parties.

Chair Horton agreed that it was incorrect that the stairs were built without a permit and that people buying into a PD need to understand that they cannot just change their house like they could in a single-family home. With regard to 12.12.C.1, she focused on the word "block" and questioned what that means. In her opinion it means that a view is blocked in a substantial way and she did not find this extension substantial – she found it miniscule.

With regard to querying the parties, DCA Kane suggested that they should not be put on the spot to make a decision on the public record; the hearing could be continued until another date, even if the parties do not

wish to explore other alternatives. When the Commission reconvenes they would have make a determination on the issue.

MOTION: By Commissioner Parsons, seconded by Commissioner Reed, to continue the item to a date uncertain, with notice to both sides when they reconvene to discuss the matter.

Ayes: Parsons, Reed, Mercer, Mathewson, Frautschi, Mayer, Horton
Noes: None

Motion passed 7/0

CDD de Melo stated that staff will follow up with both the applicant and the appellant to determine next steps.

Chair Horton called for a short recess at 7:55 p.m.

5B. PUBLIC HEARING - 2324 Hastings Drive

To consider a Conditional Use Permit to amend the Carlmont Woods No. 2 Detailed Development Plan (DDP) by constructing/adding a 142 square-foot addition to the existing 2,740 square foot single-family residence for a total of 2,882 square feet. (Appl. No. 2009-0029)

APN: 045-482-140; Zoned: PD – Planned Development

CEQA Status: Categorical Exemption per Section 15303

APPLICANT/OWNER(S): Jian Zhang & Yan Liu

PROJECT PLANNER: Rob Gill, (650) 598-4204

AP Gill summarized the Staff Report, recommending approval of the Conditional Use Permit subject to the Resolution and Conditions of Approval attached.

Responding to Commissioner Mercer, AP Gill did not know if any other units in the development are built clear to the lot line. He confirmed that a wall on this project will go from a 2' setback to nearly zero.

The applicant was in the audience but chose not to make a presentation.

Chair Horton opened the Public Hearing. No one came forward to speak.

MOTION: By Commissioner Frautschi, seconded by Vice Chair Mayer, to close the Public Hearing. Motion passed 7/0 by a show of hands.

Commissioner Reed could make the findings and support the project.

Commissioner Parsons concurred, noting that there is dedicated open space next to the zero lot line that would provide access for the Fire Department.

Vice Chair Mayer could make the findings for the project.

Commissioner Frautschi stated that Finding 1 regarding compatibility was a close call for him since approval of the project will result in the largest dwelling of all those surveyed, but he would not deny the project on that basis. He thanked the applicant for submitting the project and wished them luck on finding a good contractor.

Commissioner Mercer was not opposed to the concept of enlarging the home since it is within the existing footprint, but she was concerned about it going all the way up to the lot line. She also had issues with Finding 1 because of the faux painted stone arch and the added window not being integrated to match the other two windows.

Commissioners Mathewson, Parsons and Frautschi concurred with Commissioner Mercer's comments.

Commissioner Mercer added the suggestion that a header beam or shingle treatment could be substituted for the painted stones, which she did not believe were up to the architectural standards of the development.

Chair Horton could make the findings but was willing to have a condition that will allow staff to make the new windows match the existing windows.

MOTION: By Commissioner Parsons, seconded by Commissioner Mathewson, adopting the Resolution approving a Conditional Use Permit to amend an approved Detailed Development Plan for 2324 Hastings Drive (Appl. 2009-0029) with the Conditions of Approval attached, and with the additional condition that window treatments be revised and approved by staff to mimic the windows on the front of the house.

Commissioner Parsons added the suggestion that the applicant look into something besides faux painting stones over the entrance arch, but did not make it a requirement.

Ayes: Parson, Mathewson, Mercer, Frautschi, Reed, Mayer, Horton
Noes: None

Motion passed 7/0

Chair Horton stated that this decision may be appealed to the City Council within 10 calendar days.

5C. PUBLIC HEARING – Vacant lot on Lower Lock Avenue

To consider a Single Family Design Review to construct new 4,458 sq. ft. single-family home on a vacant, ten-acre lot, which is below the maximum 4,500 square feet permitted for the zoning district. (Appl. No. 2009-0028) APN(s): 043-042-750, 043-192-210 & 043-192-220

Zoned: HRO-1 - Hillside Residential and Open Space - Un-subdivided

CEQA Status: Categorical Exemption per Section 15303

APPLICANT/OWNER: Scott and Mary Piazza

PROJECT PLANNER: Damon DiDonato, (650) 637-2908

SP DiDonato summarized the Staff Report and provided material samples as well a perspective drawing that had been submitted by applicant the day of the meeting. He called attention to some of the unusual conditions of approval and the proposed Conservation Easement (CE) included in the proposal, and noted that he had placed a Revised Resolution and Revised Conditions of Approval on the dais. The revisions were made at the request of the applicant for tax reasons. In addition, a condition regarding drainage had been changed at the recommendation of Public Works staff and with the concurrence with the property owner. In response to Commissioner Mayer, SP DiDonato confirmed that there is one property of 8 merged lots that is in common ownership with the 10-acre property, and that no reason has been given by the applicant for excluding it from the CE.

Scott and Mary Piazza, applicants/owners, thanked staff and the Commission for all the work they have done to make their future home a reality.

Jim Shay, project architect, introduced other members of the project team who were present and thanked SP DiDonato, Fire Marshal Palisi and Building Official Nolfi for their help. He presented a detailed description of the proposed project, using overhead plans and describing fire prevention and architectural design concepts.

Warren Simmonds, landscape architect, presented a detailed description of the landscape features and vegetation management plan.

In response to Commissioner Mercer, Mr. Simmonds stated that hydro seeding will be done as necessary.

In response to Commissioner Frautschi, Mr. Simmonds stated that benches will be in place on the property for enjoying the view, but they have no plans to build gazebos or other remote structures.

Chair Horton opened the Public Hearing.

Warren Gibson, Belmont resident, commented that he had been a member of the San Juan Canyon Trust that had attempted to buy the property before it was purchased by the Piazzas. He believed that the proposed project is a better outcome than the Trust could have done because almost all of the views and open space are preserved. He endorsed the plan and hoped it would go forward.

Karen Kimura, Belmont resident, expressed concerns about the geological impact on the hillside and what is below it, and asked for clarification of the two easements and the environmental clearance section of the report. SP DiDonato explained the CEQA requirements, and confirmed that the applicant is proposing an easement across the 10-acre property and that a second easement is required where the driveway is located because the applicant is gaining access off a property in common ownership. He explained that the City's geologic review and approval process. In response to her question regarding surveying, SP DiDonato explained that there is a degree of tolerance between surveys and that the County surveyor makes sure that the lines close and that it is within tolerances.

Michelle Meliska and John Park, Belmont residents, came to the podium. Mr. Park stated that they are trying to address a fence issue with the Piazzas without litigation. He had some questions about the easements and thought the idea of preserving the open space was a good one. Michelle Meliska expressed her concern that there is no guarantee that the co-owner of the adjacent lot will not attempt to try to develop this area, and that Council had asked that it be considered as part of this development plan. She stated that, as a safety precaution for her young children, she and her husband intend to put up a fence to prevent cars from using their driveway, which is the last one on the dead-end road, as a turn-around. She was also concerned about the construction traffic impact on the neighborhood and commented that she did not see any mention of renovation or road improvement in the packet. SP DiDonato responded that there are conditions from Public Works that the applicant improve the end of Lower Lock Avenue at the end of the project and that there is an amended condition about the drainage related to that. Regarding construction management, he noted that Condition 8 of the revised Conditions requires the applicant to notify neighbors of the construction schedule and to let them know when grading will occur. In addition, all construction staging must be done on site and since this is a large lot there should be no problem getting the vehicles out of the public roadway. He reiterated that there is a voluntary proposal for a CE across the 10-acre property but not one for the 1-acre property. Responding to Commissioner Parsons, using an aerial photo of the property, he outlined the area that is included in the CE, also referring to the zoning maps included in the packet. Responding to Commissioner Frautschi, SP DiDonato clarified that the number of homes that could be built on the remaining 1-acre lot would depend on the slope of the property, adding that it is highly unlikely that the area to the right of the driveway is developable due to geotechnical issues.

Ms. Meliska returned to the podium in an attempt to determine why the Piazzas were not willing to entertain the idea of merging the remaining property into the CE. Chair Horton reminded that the Piazzas have offered the CE and that it is not a requirement of the project.

MOTION: By Commissioner Parsons, seconded by Commissioner Mathewson, to close the Public Hearing. Motion passed 7/0 by a show of hands.

Commissioner Frautschi thanked the Piazzas for the project, noting that his earlier concerns about fire resistance and lighting were taken care of, and complimented them on many features of the plan and their neighborhood outreach. He suggested that the applicant consider the following:

- Use of a solar component.
- Addition of a fireplace in the bedroom.
- Addition of a water or art feature in the gravel entry courtyard area.
- A destination feature of some type.

Commissioner Frautschi stated his understanding that the CE is granted in lieu of paying approximately \$23,000 in tree removal fees, and that it does not include the 1-acre lot. He stated that he wished the owners would make a commitment to not build on the merged lot because it is his understanding that whoever builds there is going to have to complete the entire road all the way through. In addition, he wanted them to work with the City to build some sort of turnaround at the end of the road.

Commissioner Mercer expressed her complete support of the home, commenting on her belief that it is innovative, environmentally sensitive, visually integrated with the native surroundings, ecologically sensitive, and a role model for other architects in the area. Her concerns were as follows:

- The proposed driveway accounts for 100 cubic yards of fill and will eliminate a couple of Oak trees. She

believed the driveway could be straightened with a steeper slope that would be manageable. She noted that this is not a criticism of the applicant but more a criticism of the City's linear thinking and inability to weight the outcomes.

- She asked Mr. Shay if the parapets are an engineering requirement or strictly an aesthetic addition. Mr. Shay responded that in some cases they are there to articulate a height difference between two different forms, in some cases they are holding the planted roof in place, and that in this fire zone they need to flash the roofs very carefully. The parapets will be sheathed with matching cedar and any kind of objectionable finish will be painted out.
- How they will handle garbage collection?
- Hydro seeding should be mentioned in the landscape plan or the conditions.
- Construction workers' vehicles parked on the street could become a problem for residents. SP DiDonato suggested that they augment the condition about grading to require that a construction vehicle and/or an employee parking plan be submitted with the building permit submittal to be reviewed by Public Works and Planning.
- Condition 30 on page 13 should be deleted as it is covered in another condition.
- She did not view the granting of the CE as a trade-off for removal of 8 trees. She viewed approval of the house in this sensitive location as an exchange for the CE. She suggested that trees 7, 16 and 12 were small and in only fair condition so that she would not require mitigations fees for them, but wanted mitigation for the remaining 5 in addition to the proposed plantings.

Commissioner Mathewson applauded the applicant for the comprehensive plan for the location, and for listening to past Commissions and Councils.

Vice Chair Mayer concurred with Commissioner Mathewson and was willing to accept whatever tradeoffs are on the table.

Commissioner Parsons confirmed for the record that the plan includes planting 44 trees in addition to the CE. He had no problems with the project and said he could understand why the driveway is the way it is. He mentioned that a railing will need to be placed along the 10' retaining wall and hoped that it would be aesthetically pleasing. He was very pleased with the project and applauded the CE.

Commissioner Reed expressed his complete approval of the project, especially the way the house fits into the natural landscape. He felt that the gift to the City of approximately 9-1/2 acres that will never be built on was an overly generous trade-off for removal of the trees. He suggested that the applicant consider getting a small 4-wheel-drive vehicle to assist with trash collection.

Chair Horton expressed complete approval of the project, noting that there is very little being disturbed by the excavation, the house snuggles right into the property and that it is sensitive to the neighbors, both natural and human.

Regarding Commissioner Mercer's request for an added condition regarding hydro seeding, SP DiDonato noted that Condition 20 under Public Works (page12) has a provision for reseeding disturbed areas.

MOTION: By Commissioner Reed, seconded by Commissioner Mathewson, adopting the Resolution approving a Single-Family Design Review for a vacant lot on Lower Lock Avenue (APN 043-042-750, 043-192-210 and 043-192-220) (Appl. No. 2009-0028) with attached Exhibit A, Revised Conditions of Project Approval, and the additional condition requiring a parking plan for construction vehicles and construction employees, and deletion of Condition of Approval 30.

Ayes: Reed, Mathewson, Mercer, Parsons, Frautschi, Mayer, Horton
Noes: None

Motion passed 7/0.

It was noted that there is a typo in the Resolution; the second parcel number should read 043-192-220.

Chair Horton stated that this decision may be appealed within 10 calendar days.

Chair Horton called for a short recess at 9:40 p.m.

6. REPORTS, STUDIES AND UPDATES:

CDD de Melo reported as follows:

6A. Ralston/US-101 Landscape Project
No report at this time.

6B. San Mateo Development – North Road/43rd Avenue
Thanked Commissioners for their feedback on this project. The applicants have agreed to all conditions associated with the property at 9-15 43rd Avenue, including tree plantings, a consistent sidewalk pattern, ground cover for the project directly to the west, and no commercial activity at 25 West 43rd Avenue, including trash pickup. Temporary encroachment permits will be issued shortly. The property to the west (Chao Praya) has been approved for a mixed use project with consistent landscaping and sidewalk profile but is on hold due to the construction lending climate.

Commissioner Reed thanked Commissioner Parsons for taking the lead on this project, and asked if the City will commit to improving the remainder of North Road up to Malcom.

Responding to Commissioner Parsons, CDD de Melo stated that the western property includes a fence and all conditions suggested by the Commission are conditions of approval for the temporary encroachment permit. In addition, the City levied a performance bond for landscape maintenance to assure that it gets established and stays maintained. Commissioner Parsons added that he has been talking with Parks Supervisor Ourtiague regarding continuing improvements up the street on City property.

CDD de Melo thanked the Commission for keeping this item on their agenda and thanked Associate Planner Walker for her extensive work on this project.

6C. Parking Study – Downtown Village Area
No report at this time.

6D. High-Speed Train (HST) Project – San Francisco to San Jose
Updates are provided to the HST group email as they are received and Commissioners are always welcome to attend meetings or talk to staff with questions or concerns.

6E Chuck's Donuts – 641 Ralston
Code Enforcement Officer Buckman has made contact with the property owner and they are in the process of getting some tree replacements for the ones that are in very poor shape.

6F. Emmett House
He has discussed some interior finishing details with members of the Planning Commission subcommittee and expected to receive color swatches from the contractor shortly. He would still like to have a walk-through with the full Commission.

6G. 2007 – 2014 Housing Element – HCD Response Letter
Staff is in the process of working on responses to the questions posed by the HCD, with the goal of responding by January 19, 2010, followed by public outreach and public hearings for the Planning Commission and City Council. Commissioner Reed commented that with the money spent putting this plan together they could have actually provided housing for low-income people; it seems like an enormous waste of money to him. He added that he was not making a judgment on the quality of work that was done but on where the State's priorities are.

Other Items

Commissioner Mercer asked if there will be a meeting in the coming months to finalize the Design Guidelines. CDD de Melo responded that he is planning to include Design Guidelines on the November 17th agenda.

7. CITY COUNCIL MEETING OF TUESDAY, NOVEMBER 10, 2009

Liaison: Vice Chair Mayer

Alternate Liaison: Commissioner Parsons

10. ADJOURNMENT:

The meeting was adjourned at 9:52 p.m. to a Regular Planning Commission Meeting on Tuesday, November 17, 2009 at 7:00 p.m. in Belmont City Hall.

Carlos de Melo
Planning Commission Secretary

CD's of Planning Commission Meetings are available in the
Community Development Department.
Please call (650) 595-7416 to schedule an appointment.